

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 70/00; Case 11.797
Session:	Hundred and Eighth Regular Session (2 – 20 October 2000)
Title/Style of Cause:	Gladis Cardozo Andrade v. Venezuela
Doc. Type:	Decision
Decided by:	Chairman: Helio Bicudo; First Vice-Chairman: Claudio Grossman; Second Vice-Chairman: Juan E. Mendez; Commissioners: Marta Altolaguirre, Robert K. Goldman, Peter Laurie, Julio Prado Vallejo
Dated:	3 October 2000
Citation:	Cardozo Andrade v. Venezuela, Case 11.797, Inter-Am. C.H.R., Report No. 70/00, OEA/Ser.L/V/II.111, doc. 20, rev. (2000)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

I. SUMMARY

1. On March 3, 1997, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) received a petition lodged against the Republic of Venezuela (hereinafter “the State” or “Venezuela”) by Mrs. Gladis Cardozo Andrade (hereinafter “the petitioner”), based on Articles 41(f); 44; and 46(1), (a), (b), (c) and (d), of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”).

2. The petition alleges violation by the State of Articles 7(3) (Right to Personal Liberty); 8(1), (2), (c) and (d) (Right to a Fair Trial); 10 (Right to Compensation); 11(1) and (2) (Right to Privacy); 14(1) (Right of Reply); 24 (Right to Equal Protection); and 25 (Right to Judicial Protection) in connection with Article 1(1) of the American Convention, as a result of a series of proceedings conducted by the Venezuelan courts which culminated in the prosecution and conviction of the petitioner for the crime of “false or malicious accusation” to the detriment of a Superior Court Criminal Judge. The Commission began to process the petition on August 27, 1997 and the State presented its reply on April 22, 1998. The State argued that the petition was inadmissible in accordance with Articles 46(1)(b) and 47(c) of the Convention and Article 38(1) of the Commission Regulations (hereinafter “the Regulations”), inasmuch as it considers that it was lodged after the deadline for presentation and that none of the allegedly violated rights had been infringed by Venezuela. The Commission placed itself at the disposal of the parties with a view to initiating a friendly settlement procedure on February 10, 1999. That procedure concluded on March 17, 1999 with the refusal of the offer by the State.

3. From its analysis of the admissibility requirements, the Commission finds that the petitioner lodged her petition after the deadline for presentation and that she did not appropriately exhaust the remedies under domestic law. Accordingly, it finds the petition inadmissible.

II. PROCESSING BY THE COMMISSION

4. On August 27, 1997, the Commission opened the case and requested the State for information on the facts alleged by the petitioner. On November 21, 1997, the State presented a request for information addressed to the petitioner, dated November 19, 1997, alleging that this information was important for the preparation of the State's reply. On March 5, 1998, the petitioner presented a brief of February 26, 1998 with the information requested by Venezuela and, at the same time, requested by the State to declare its position regarding certain points in relation with her prosecution and conviction in the Venezuelan courts.

5. On April 22, 1998, the State submitted its reply to the petition, arguing that it was inadmissible pursuant to Articles 46(1)(b) and 47(c) of the American Convention; and Article 38(1) of the Regulations. The petitioner submitted comments to the State's reply and the Commission later received information from both parties. The Commission received the petitioner's comments together with supplementary information on June 3, June 23, July 23, September 8, and December 29, 1998; on March 9, April 26, June 14, September 27, and November 15, 1999; and on May 5, 2000. The State presented its comments on April 22, July 13, and October 13, 1998; on March 11, and September 20, 1999; and on February 1, 2000.

6. On February 10, 1999, the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement, in accordance with Article 48(1) of the Convention and Article 45 of its Regulations. On March 9 of that year, the petitioner presented its acceptance of the Commission's offer. On March 11, 1999, the State informed the Commission of its refusal to the offer. The Commission concluded the friendly settlement procedure on March 17, 1999.

III. POSITIONS OF THE PARTIES

A. The petitioner

7. According to the petition in May 1989 Mr. Genady Kamenev died, naming Mrs. Eligia Andrade Bolaños as his heir, in order that she took care for Mrs. Anastasia de Kamenev, the deceased's mother, until her death.[FN1] In spite of the foregoing, Mr. Ernesto Croce Navarro, taking advantage of the absence of any relatives and the elderliness of Mrs. Kamenev, forged a power of attorney in his favor and began to dispose of the assets of the before mentioned family.

[FN1] Mrs. Andrade was employed as a maid by the Kamenev household and cared for Mrs. De Kamenev in view of her delicate health and elderliness.

8. According to the petitioner, in a lucid moment, Mrs. Kamenev, through her maid, retained her services in order to prevent Mr. Croce from carrying out his intentions and, as a lawyer, she proceeded to file a complaint against Mr. Croce in order to revoke the power of attorney that he held.[FN2]

[FN2] Furthermore, Mrs. Tibisay Díaz, niece of Mrs. Eligia Andrade and partner of the deceased, Mr. Genady de Kamenev, filed a petition to declare Mrs. de Kamenev incompetent with the 5th Civil Court. As a result of that proceeding, Mrs. Eligia Andrade was appointed provisional guardian of Mrs. Anastasia de Kamenev.

9. The petitioner says that subsequently, Mr. Croce was summoned by the respective court but failed to appear. Instead, he obtained legal counsel and proceeded formally to accuse a group of persons, among them the petitioner, of “sequestration and failure to ensure the physical and emotional well-being” of Mrs. Anastasia de Kamenev. The petitioner adds that, as a result, the Judge of the 39th Criminal Court issued a warrant for her arrest and charged her with false testimony, abandonment of a disabled person, and gang association to delinquent together with Mrs. Eligia Andrade. The petitioner considers this measure to be an arbitrary deprivation of her freedom, inasmuch as the decision was not in keeping with legal requisites.

10. The petitioner says that the arrest warrants were revoked on appeal by the 19th Superior Criminal Court. However, that Court changed the classification of the crimes to attempted aggravated homicide in the case of Mrs. Andrade, and neglect in the case of Mrs. Cardozo.

11. The petitioner claims that during her trial the judge of the 29th Criminal Court committed many infringements of domestic laws, which prompted the petitioner to accuse her of adulteration and withholding of a public document. However, the 7th Criminal Court closed the investigation of the accusation without carrying out all the procedural steps required by law, on the grounds of finding the accusation to be “utterly false”.

12. Mrs. Cardozo says that subsequently the judge charged her with false or malicious accusation. The court issued a warrant for her arrest, tried her in absentia, and convicted her as charged on February 2, 1993. She adds that there was a clear bias toward the accused Judge because she was a serving judiciary official, while the petitioner, on the other hand, was not granted her legally entitled guarantees, did not have a prior hearing, and was not privy to the criminal enquiry of the charges against her.

13. The petitioner considers that the court violated her right to be assisted by legal counsel of her own choosing since it ruled that she was only entitled to defense during the preliminary proceeding stage and a public defender was appointed for her for the trial proper, who was not diligent in her defense, did not pursue the appropriate procedural remedies, nor stated her opinion for the record regarding the irregular “closed enquiry.” Accordingly she failed both to fulfill her duty, and to honor her oath.[FN3]

[FN3] In this regard, the petitioner mentions that the 34th Criminal Court found that she was only entitled to the assistance of her attorney during the preliminary stage of the proceeding, and a public defender was appointed for her for the trial proper, who was not diligent in her defense, did not pursue the respective procedural remedies, nor pronounced his opinion for the record regarding the “irregular closed enquiry.” Petitioner’s Brief of March 3, 1997, p. 2.

14. She adds that she was tried in an ironical manner, inadequately and with clear intention, making a mockery of the real meaning of justice. Although the courts are created to enforce the law, if the law itself divests a public official of all privileges, the courts can ill grant such privileges without committing violations of procedural rules, which undermine the institutions of criminal procedural law.

15. After the necessary period had elapsed for the statute of limitations on the judgment to run, Mrs. Cardozo applied for limitation on September 23, 1994. However, the court issued its decision five months later, due to the intervention of a court inspector. In that way, she was granted full freedom on January 13, 1995. Based on the foregoing, she considers that during that interval she was arbitrarily deprived of her freedom. On June 30, 1995, she filed an application for judgment review with the Tribunal for Protection of Public Assets, which disallowed the application on December 12, 1996. The petitioner regards both intervals (for reaching the decision on limitation and the decision to disallow her application for review of judgment) as procedural delays that violate her right to a prompt, simple and effective remedy.

16. According to Mrs. Cardozo, her honor and dignity were impaired by harmful public comments. She considers that from a professional point of view she is denied the possibility of holding public offices because she lacks ethical and moral standing, which constitutes a very serious injury and a cause of irreparable damage to her detriment and to that of her family.

17. Finally, the petitioner invokes application of Article 10 of the American Convention, inasmuch as she considers herself to have been the victim of a miscarriage of justice and arbitrary detentions. She further invokes her right of reply under Article 14 of the Convention to inaccurate and offensive information disseminated to the public in general by the written press.

B. The State

18. The State requests that the petition be found inadmissible pursuant to Articles 46(1)(b) and 47(c) of the American Convention, and to Article 38(1) of the Regulations, on grounds that it was lodged after the deadline for presentation, the violations alleged do not exist, and it does not state the true facts. The State adds that it has not interfered nor obstructed Mrs. Gladis Cardozo Andrade’s access to the remedies under international law and that, on the contrary, the petitioner has been at full liberty to seek them but that in the instant case has missed the deadline for doing so.

19. The State argues that the petition is inadmissible because it was submitted to the Commission for consideration later than six months after the petitioner was notified of the final judgment convicting Mrs. Cardozo of the offense recognized in the Organic Law on Protection

of Public Assets.[FN4] The State says that the sentence imposed on February 2, 1993 became final the same day because Mrs. Cardozo did not appeal the court's decision; furthermore, the petitioner did not lodge her petition with the Commission until August 27, 1997, which, according to the State, constitutes a period of more than four years and six months.

[FN4] Article 80 of the Organic Law on Protection of Public Assets provides that, "Private citizens and public officials who falsely or maliciously denounce or accuse a person or official of committing any punishable act or acts recognized in the instant Law shall be punished with a term of imprisonment of one to three years."

20. The State submits that the six-month rule is closely tied to the rule of exhaustion of domestic remedies because a violation of the rights enshrined in the Convention is considered committed at the time the respective final judgment is rendered under domestic law, which, in the instant case, is the judgment delivered on February 2, 1993. In any case, the State considers that it may be deduced from the petition itself that Mrs. Cardozo was notified of the sentence on the date it was issued because that is the date she uses in her briefs.

21. As to the application for review of judgment, the State says that Mrs. Cardozo sought to create a new judicial instance after finding that all the deadlines had expired for filing ordinary appeals against the conviction, and that the application was dismissed based on the absence of errors in her trial. The State adds that the application was a criminal appeal that "in no way modifies or alters the finality of the conviction, and that, given its extraordinary nature, its admission would have been in order solely to repair injury caused by unjust sentences;" it is designed to provide redress to injured parties.

22. The State argues that the aim of the petition lodged by Mrs. Cardozo against Venezuela is for the Commission to proceed to examine, appraise, and issue a decision on the factual and legal grounds on which the Venezuelan courts based the judgments they issued in the cases related to the instant petition. The State also says that both the Inter-American Court and the Commission have stated on various occasions that the Commission cannot review judgments issued by the domestic courts acting within their competence and with due judicial guarantees, in order to examine, appraise and pronounce a decision on the de facto and de jure arguments on which they based their judgments, unless it considers that a possible violation of the Convention is involved.

23. The State adds that the Commission's task is to ensure the observance of the obligations undertaken by the States parties to the Convention, but it cannot serve as an appellate court to examine alleged errors of internal law or fact that may have been committed by the domestic courts acting within their jurisdiction, since it is not a fourth instance. The State also holds that Mrs. Cardozo has taken out of context the protected rights alleged as violated, since clearly they do not amount to a violation of the Convention.

24. The State deems it necessary to point out that Mrs. Cardozo was tried in absentia due to her refusal to appear in court, but she was always duly represented by a public defender. This trial in absentia also resulted from the fact that she was accused of a crime recognized in the

Organic Law on Protection of Public Assets, which permits defendants to be tried in their absence.[FN5]

[FN5] In respect of this point it should be emphasized that at the time of ratifying the American Convention Venezuela made a reservation as regards Article 8(1), insofar as Article 60(5) of the Constitution of the Republic of Venezuela establishes that persons accused of an offense against the res publica may be tried in absentia, with the guarantees and in the manner prescribed by law. Such a possibility is not provided for in the aforementioned Article 8.

25. The State adds that Mrs. Gladis Cardozo did enjoy the judicial guarantees contained in Article 8 of the Convention and that of her own volition she did not appear in court to hear the accusation made against her nor filed any appeal against the conviction, and, as she failed to obtain a satisfactory decision, she filed a petition alleging violation of Article 8 of the American Convention, even though the Commission is not an organ whose task is to review the decisions pronounced.

26. As regards the alleged failure of the Venezuelan courts to accord her equal treatment, the State holds that the petitioner has not provided any information on how her rights were violated, nor advanced any evidence to support the alleged impartiality to her detriment, and that, in spite of her position as a lawyer aspiring to a judgeship, she did not attempt any of the remedies under domestic law designed to protect her right to defense, such as recusation. The State adds that the petitioner was negligent in the exercise of her rights and intends that the Commission examine and appraise defenses that she never used. The State argues that, on the contrary, the petitioner remained a fugitive of the Venezuelan justice until she was sure that the statute of limitations on the sentence had run.

27. The State says that the argument of alleged arbitrary deprivation of the petitioner's freedom for a period of a month and a half, due to the fact that the warrant issued for her arrest was subsequently revoked, is groundless since the preventive measure imposed on Mrs. Cardozo was the result of an arrest warrant that came from a competent judge who was taking cognizance of the proceeding in which she was involved, and was issued in accordance with a number of concurrent requirements set forth in the Venezuelan Code of Criminal Procedure. In that regard the State cites the observations of the Inter-American Court which has found in the sense that remanding an innocent person in custody on the orders of a competent judge does not constitute an illegal act, since such an illegal act would only be originated by a failure to respond to the violation as required by the Convention.[FN6]

[FN6] The State's reply of April 21, 1998, page 9. It cites cases heard by the Inter-American Court of Human Rights: Velásquez Rodríguez Case, paragraph 173 and Godínez Cruz Case, paragraph 183.

28. The State adds that the fact that the decision should subsequently have been revoked by a superior court does not mean that the detention was arbitrary but, rather, reflects the existence of the right of defense in the proceeding, which was successfully exercised by Mrs. Gladis Cardozo.

29. The State holds that Mrs. Cardozo's argument that her right to privacy was violated is false, given that all that can be concluded from the press articles cited by the petitioner is that the Judicature Council excluded Mrs. Cardozo from a list of applicants for a judgeship in 1989 because her conduct was open to question. At the time there was a warrant out for the petitioner's arrest and she was the subject of a criminal inquiry. Based on the foregoing it is not true that the aforesaid declarations can be concluded as violatory but, rather, that they resulted from events that occurred at the time.

30. As to the alleged violation of the right to a prompt and simple remedy, the State argues that the Convention does not say that violation of the right to a prompt and simple remedy occurs when a decision is made outside of the period provided under national law. The delay must be unwarranted and in both cases the appeals were decided within a reasonable period and, on the contrary, the record shows that there is no appeal pending or that has not been processed in Venezuela. Consequently, it is unfounded for Mrs. Cardozo, who acknowledges the existence of the remedy of amparo from which she obtained a favorable result for herself, to allege violation of Article 25 of the Convention.

31. Finally, the State requests the Inter-American Commission to find the petition inadmissible due to the information provided and the arguments advanced by the petitioner, since the facts stated do not tend to establish a violation of the rights guaranteed by the Convention, on which basis it is groundless and out of order.

IV. ANALYSIS

A. Competence of the Commission

32. The petitioner claims that the State has violated her rights under Articles 1(1); 7(3); 8(1), (2), (c) and (d); 10; 11(1), (2); 24 and 25 of the American Convention. The State ratified the American Convention on Human Rights on August 9, 1977 and the events connected with the petition lodged with the Commission occurred after ratification of the American Convention by the Venezuelan State. Based on the foregoing, the Commission finds that it has *ratione materiae* and *ratione loci* competence, inasmuch as the petition concerns rights protected by the American Convention in respect of the Republic of Venezuela.

33. With respect to *ratione personae* competence, the petition was lodged by Mrs. Gladis Cardozo Andrade, who has the legal capacity to present the petition to the Commission in accordance with Article 44 of the American Convention. Accordingly, the Commission is competent to take up this petition pursuant to Article 44 of the American Convention and Articles 18 and 19 of its Statute.

34. As to *ratione temporis* competence, the Commission concludes, based on examination of the information presented by both parties and its own interpretation of the admissibility

requirements for lodging the petition, that it lacks competence to take up the petition in pursuance of Article 46(1)(a) and (b) of the American Convention and Articles 37 and 38 of its Regulations for the reasons examined below.

B. Requirements for the admissibility of the petition

a. Exhaustion of domestic remedies and period of presentation

35. In accordance with Article 46(1)(a) and (b) of the American Convention, admission of a petition is subject to the requirements that the remedies under domestic law have been pursued and exhausted and that the petition is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment under the domestic remedies. The foregoing is founded on the fact that the State has a legal duty to provide suitable and effective domestic remedies in order to redress violations of human rights; and, as a counterpart thereto, the alleged victim has the obligation to exhaust procedures under domestic law, barring the applicable exceptions, by pursuing suitable remedies for resolving the alleged violations. This requirement exists in order for the State concerned to have the opportunity to settle disputes within its own legal framework.

36. In the instant case the State considers that the petition was lodged later than the six-month period following the final judgment issued against Mrs. Gladis Cardozo and that, therefore, the petition is inadmissible under that precept. The petitioner, for her part, argues on several occasions that the onus is on the State to disprove her allegations and that the petition contains sufficient evidence to reject this argument advanced by the State. Furthermore, she holds that she is able to present the petition because she exhausted domestic remedies, namely recusation, indictment, appeals, accusations and application for review of judgment[FN7].

[FN7] The petitioner's brief of February 26, 1997, presented to the IACHR on March 3, 1997, p.13.

37. In this regard the Commission finds that some of the domestic remedies that the petitioner deems pursued were not done so by her directly but, rather, by other interested parties in the proceeding, such as Mrs. Tibisay Díaz.[FN8] Nevertheless this situation is of secondary importance on observing that it is the conviction of February 2, 1993, which directly affects the petitioner and which causes *res judicata* in respect of a criminal matter. Mrs. Cardozo did not impugn this judgment until after the statute of limitations had run on the sentence, and she did so by means of an application for review filed on June 30, 1995.

[FN8] See paragraphs 10 and 13 of the instant report.

38. In connection with the foregoing, the Commission analyzes if the application for review filed by the petitioner is a suitable and effective remedy for impugning decisions in which, as in

the case in question, a petitioner alleges errors in the application of legal norms or in the interpretation of the facts by the State. The Commission also examines if said remedy is suitable for exhaustion of domestic remedies prior to resorting to the inter-American system.

39. Article 46(1)(a) of the Convention speaks of “generally recognized principles of international law.” Those principles refer not only to the formal existence of such remedies, but also to their adequacy and effectiveness, as shown by the exceptions set out in Article 46(2). In this connection, the Inter-American Court of Human Rights has found that:

64. Adequate domestic remedies are those which are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country, but not all are applicable in every circumstance. If a remedy is not adequate in a specific case, it obviously need not be exhausted. A norm is meant to have an effect and should not be interpreted in such a way as to negate its effect or lead to a result that is manifestly absurd or unreasonable.[FN9]

[FN9] Inter-Am. Ct. H.R., Velásquez Rodríguez Case, Judgment of July 29, 1988, para. 64.

40. A remedy must also be effective - that is, capable of producing the result for which it was designed. The mere fact that a domestic remedy does not produce a result favorable to the petitioner does not in and of itself demonstrate the inexistence or exhaustion of all effective domestic remedies. For example, the petitioner may not have invoked the appropriate remedy in a timely fashion.[FN10]

[FN10] Inter-Am. Ct. H.R., Velásquez Rodríguez Case, Judgment of July 29, 1988, paras. 66 and 67.

41. In respect of the foregoing, the Commission finds that the petitioner had access to several suitable remedies to impugn her conviction. However, she did not attempt any legal action against the judgment, either directly or through her legal representative.

42. Mrs. Cardozo alleges that the public defender she was assigned to was not diligent in her defense and did not pursue the appropriate procedural remedies; while the State considers that she was tried in absentia because of her refusal to appear in court, but was always duly represented by a public defender in a proceeding involving a crime for which the law provides that possibility. It is the opinion of the Commission that if Mrs. Cardozo disagreed with the court’s decision, she had the opportunity of pursuing the remedies available to her under domestic law. However, she remained absent and it was not until the statute of limitations had run on the sentence that she filed an application for review of the judgment.

43. On the other hand, the Inter-American Court has found that:

10. There are innumerable references in legal writings to the remedy of revision as an exceptional recourse for preventing a res judicata from maintaining a patently unjust situation resulting from the discovery of a fact which, had it been known at the time the judgment was delivered, would have altered its outcome, or which would demonstrate the existence of a substantive defect in the judgment.

11. The legal motives envisaged as reasons for the remedy of revision are restrictive in nature, inasmuch as the remedy is always directed against orders that have acquired the effect of res judicata, that is, against judgments of a decisive nature or interlocutory judgments that are passed and put an end to the proceeding.

12. The remedy of revision must be based on important facts or situations that were unknown at the time the judgment was delivered. The judgment may therefore be impugned for exceptional reasons, such as those involving documents the existence of which was unknown at the time the judgment was delivered; documentary or testimonial evidence or confessions in a judgment that has acquired the effect of a final judgment and is later found to be false; when there has been prevarication, bribery, violence, or fraud, and facts subsequently proven to be false, such as a person having been declared missing and found to be alive.[FN11]

[FN11] Inter-Am. Ct. H.R., Genie Lacayo Case, Application for Judicial Review of the Judgment of January 29, 1997, Order of the Court of September 13, 1997, paras. 10-12.

44. In the most favorable of hypotheses for the petitioner, her application for review could result in the Venezuelan courts pronouncing on the conduct but not on the merits of the case prosecuted against her, since the latter lacked all legal effects because the statute of limitations on the sentence had run. Consequently, that application could not result in a decision that would restore her situation to its former state or annul the violations alleged by the alleged victim. Mrs. Cardozo filed an application for review that, in the opinion of the Commission, did not fully satisfy the objective of impugning the judgment imposed, since the statute of limitations thereon had run.

45. For the foregoing reasons, the Commission concludes that the remedy of revision is patently inappropriate to redress the allegedly violated legal situation. The Commission also concludes that the aforesaid initiative does not constitute a legal remedy in the sense of Article 46(1)(a) of the Convention and, therefore, also fails to meet the requirement of the six-month deadline provided in Article 46(1)(b) of that instrument because more than four years and one month elapsed between the final judgment rendered by the Venezuelan courts and the petition lodged with the Inter-American Commission.[FN12]

[FN12] In this regard, the European Commission of Human Rights, upon examining Article 26 of the European Convention on Human Rights, which sets a similar deadline to that in Article 46(1) of the American Convention, established the following:

The Commission recalls that it has the competence in every case to appreciate, in the light of the particular facts, whether any given remedy appears in a given case to offer the possibility of effective and sufficient redress, within the meaning of the generally recognized rules of

international law in regard to the exhaustion of domestic remedies and, if not, to exclude it from consideration in applying the six months time-limit.

The European Commission of Human Rights, Decisions and Reports, No. 35, Request No. 10326/83, Decision of October 6, 1983, page 220.

To that same end, another decision of the European Commission is worthy of mention. In that decision, it declared inadmissible an accusation against Ireland, also based on Article 26 of the European Convention of Human Rights. In that case, the European Commission examined the request made by the petitioner to the Attorney General for authorization to appeal to the Supreme Court and found that it was not an effective recourse under the principles recognized by international law. In arriving at that conclusion, the Commission took into account that the possibility of obtaining such authorization was not a right, but rather was up to the discretion of the Attorney General and that:

...[the appeal to the Supreme Court] is not a remedy which is part of the ordinary hierarchy of judicial decisions which a person complaining of his trial, conviction and sentence would normally be obliged to pursue.

Consequently the Attorney General's decision to refuse a Section 29 Certificate cannot be taken into consideration in determining the date of the final decision for the purpose of applying the six months' time-limit laid down in Article 26.

European Commission of Human Rights, Decisions and Reports, No. 26, Request No. 9136/80, Decision of July 10, 1981, page 244.

See also: Inter-American Commission on Human Rights, Report No. 32/98, Case 11.507 (Mexico), May 5, 1998, IACHR 1998 Annual Report, pp. 371-377.

V. CONCLUSION

46. Based on the examination of the information presented by both parties and its own interpretation of the admissibility requirements for lodging the petition, the Commission finds the petition inadmissible in accordance with Article 46(1)(a) and (b) of the American Convention and Articles 37 and 38 of its Regulations.

47. Based on the analysis and conclusions contained in the instant report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the instant case inadmissible.
2. To transmit the instant report to the petitioner and to the Republic of Venezuela; and
3. To publish the instant report and include it in its Annual Report to the OAS General Assembly.

Done and signed in Washington, D.C., on the 3rd day of the month of October, 2000. (Signed): Hélio Bicudo, Chairman; Claudio Grossman, First Vice-Chairman; Juan Méndez, Second Vice-Chairman, Marta Altolaguirre, Robert K. Goldman, Peter Laurie and Julio Prado Vallejo, Commissioners.